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BACKGROUND PAPER

THE EARLY IDENTIFICATION AND STREAMING OF CASES OF HIGH CONFLICT SEPARATION AND DIVORCE: A REVIEW

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The Early Identification and Streaming of Cases of High Conflict Separation and Divorce: A Review

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EXECUTIVE SUMMARY

This paper, based on a comprehensive review of the literature, plus a series of interviews with clinicians and researchers who work with divorced families, identifies a series of risk factors that contribute to negative outcomes for many children whose parents separate and divorce. These risk factors include structural/environmental factors, such as changes in neighbourhoods, residences and schools; relationship factors, such as loss of time with a parent or members of the extended family, changes in friendship networks and the introduction of new adult partners; and emotional factors, such as maladjustment to the separation by one or both parent's decreased parenting ability of one or both parents and increased hostility between the parents. These all contribute to a loss of predictability and routine for children, two factors often connected to children's mental health. Short-term and long-term studies of children in separated and divorced families show that these risk factors contribute to a series of negative outcomes for children, including:

- poor academic achievement;
- poor social relationships;
- conduct and social difficulties;
- emotional difficulties, including depression, fear, anxiety;
- substance abuse; and
- poor adult relationships.

One of the risk factors for children frequently identified in studies of divorce is increased or high conflict between parents. This factor was often mentioned in the hearings of the Special Joint Committee on Child Custody and Access, and the Committee recommended further study to determine whether it would be possible to establish criteria for the early identification and streaming of high conflict families into specialized services to improve outcomes for children.

This review summarizes the difficulties found in many other studies that try to clearly define high conflict divorces. By its very nature, divorce usually includes some degree of conflict between the parents, and research has been unable to reach any universal conclusions about how to distinguish between the normal level of conflict found in separation and divorce and the toxic levels referred to as "high conflict." Research also has not been able to shed light on the relative toxicity for children of different risk factors, of which parental conflict is only one.

Despite these difficulties, the research review does identify the behavioural, emotional and environmental factors most frequently connected with high conflict divorce. It also sets out a scheme for distinguishing between low and high conflict situations for the purpose of developing parenting plans for children. This scheme certainly requires more follow-up study with particular types of families to help determine the long-term effectiveness of such streaming in parenting assessments, however, it does provide a starting point for both practical and research applications.

Research on the effectiveness of adjunct services for divorced families, such as mediation, counselling and therapy, and education programs is still in a preliminary stage, thus the streaming of families at various levels of conflict toward different types of services has not yet been widely investigated. Two sets of research difficulties are identified in this study. Many of the studies that focus on a particular divorce service, such as mediation or divorce education, are based only on the experience of the recipients of that service. Most often there is no control group and so conclusions about the comparative effectiveness of such services is not possible. As well, studies about divorce services often use the term high conflict, but do not define it in terms of specific measurements of behaviour, time and intensity, so that no conclusions can be reached about the effectiveness of particular services for families who show certain levels of conflict about such issues as custody, access and support arrangements.

This paper concludes that until more sophisticated ways are found to determine precise measures of the conflict associated with divorce, it would be most useful to think of conflict as a continuum in which (1) the specific events and behaviours in a family leading up to and following the decision to separate, (2) the family and community resources available to help parents and children adjust to the structural/environmental, emotional, and relationship changes, and (3) the children's internal responses to these challenges, are all included. Such a framework provides the basis for future research as well as preventative initiatives through public awareness campaigns which would help all parents become more aware of the hazards that divorce poses to a child's mental health.

1. FRAMING THE ISSUES AND THE QUESTIONS

In 1996, 158,680 couples were married in Canada. In that same year, there were 71,528 divorces in Canada. As a result, approximately 47,000 children were the subjects of custody orders (Statistics Canada, 1999).

Divorce statistics for Canada for the last 20 years show the following pattern: in 1978 there were 57,155 divorces in Canada; this number increased steadily and peaked in 1987 when there were 96,200 divorces; the number then decreased steadily to the 1996 statistics.

In 1994-1995, Human Resources and Development Canada and Statistics Canada began the National Longitudinal Study of Children and Youth (NLSCY), in which 22,000 children from birth to age 11 were surveyed, with follow-up surveys planned every two years at least until the year 2002. In 1998, the Child Support Team of the Department of Justice Canada commissioned an analysis of the data related to custody, access and child support from the Family History and Custody section of the NLSCY. The report by Marcil-Gratton and Le Bourdais (1999) shows that an increasing proportion of children experience life in a single or separated parent family and do so at an earlier age. Of children born between 1961 and 1963, 25 percent were born to a single mother or had seen their parents separate before they reached the age of 20. Half of the parents of this group had separated after the children reached the age of 10. Twenty-five percent of the children born 10 years later (1971 to 1973) experienced their parents' separation by the age of 15, and three out of four of these children experienced the separation before the age of 10. One out of four children born in 1983 and 1984 experienced life in a single family by the age of 10, and 23 percent of children born in 1987 and 1988 experienced life in a single family by the age of 6.

It should be noted that these numbers reflect the experience of children caught up in two social trends: the increased tendency of parents to separate and the increased number of couples who chose not to marry. Marcil-Gratton and Le Bourdais (1999) report that of children born in 1993-1994 in Ontario, 12 percent were born to common-law parents, while of children in Quebec born in the same period, 43 percent were born to common-law parents.

It appears that an increasing number of Canadian couples are choosing not to marry. These couples form families, have children, and when those relationships end, their numbers are not recorded in official divorce statistics. They do, however, seem to have a significantly higher tendency to separate. Marcil-Gratton and Le Bourdais (1999) report that of children born in 1983-1984, 63 percent of them had experienced the dissolution of their parents' common-law relationship as compared to a 14 percent rate of separation for children whose parents had married.

The children of these relationships are still caught in legal disputes over custody and access, but these disputes do not fall under the jurisdiction of the *Divorce Act of Canada*. Rather, they fall within the jurisdiction of provincial Family Law. There is no evidence to suggest, however, that the effects of parental separation on children from non-married parents is any different from the effects on children whose parents were legally married.

Whatever the exact number of families in which the children experience their parents' separation, a significantly large number of Canadian children are affected by their parents' separation and divorce and the inter-parental conflict that often follows.

In 1997, the federal government formed a Special Joint Committee of the Senate and House of Commons to look at Canada's *Divorce Act* and assess whether changes were required to make the policies and procedures of divorce more focussed on the best interests of the children involved, and more based on concepts of cooperation and shared parenting responsibilities.

This Special Joint Committee on Child Custody and Access held 55 meetings and heard from more than 500 witnesses, including parents, children, grandparents, researchers, lawyers and mental health professionals. Most of these witnesses spoke of the stress caused to children and parents by divorce, and many referred to the specific harm caused to children by what were referred to as "high conflict" divorces.

There is no generally accepted definition of what exactly constitutes a high conflict divorce, although there is acknowledgement that these situations differ from the normal amount of upset associated with marital separation and divorce. We know that most separating couples go through a transition period of emotional upset related to the end of their relationship. However, why certain families become locked into long, bitter and expensive battles over custody, access and support, while the majority of separating and divorcing families are able to avoid such protracted disputes, remains unclear.

However vague the definition, several researchers and other professionals (e.g. Bala; Richardson) estimated in their testimony before the Special Joint Committee that approximately 10 to 15 percent of all divorcing families fall into this high conflict category. Using the numbers from Statistics Canada for 1996, the lower estimate means that approximately 4,700 children each year find themselves in the middle of hostile disputes over their immediate and future living arrangements. This does not include children whose parents are dissolving their common-law relationship through provincial Family Law rather than the *Divorce Act*.

The Special Joint Committee's report (Pearson and Gallaway, 1998) made 48 recommendations to Parliament concerning possible changes to the *Divorce Act*. One of these, recommendation 32, focussed specifically on high conflict divorces:

> This Committee recommends that federal, provincial and territorial governments work together to encourage the development of effective models for early identification of high conflict families seeking divorce. Such families should be streamed into a specialized, expedited process and offered services designed to improve outcomes for children.

1.1 Methodology and terms of reference

Based on an extensive review of the literature, plus a series of interviews with researchers and clinicians recognized as specialists in the area of divorce, this research was designed to:

- establish a set of criteria to identify high conflict divorces from the general population of divorcing families;
- describe and evaluate current methods used in research and clinical practice to identify high conflict divorces;
- describe means and mechanisms for streaming high conflict divorces into other services to facilitate conflict resolution; and
- explore whether there are reliable programs or interventions for resolving conflict in high conflict families and determine the long-term effectiveness of these interventions.

In order to establish the context in which high conflict divorces exist, this research begins with a summary of those studies that investigate the overall effects of divorce on children and adults. This section of the study investigates:

- how divorce affects children and whether these effects are temporary or long-lasting in nature; and
- whether divorce is a reliable predictor of negative impact on children in terms of their social, academic and emotional development.

There are many other research projects that summarize the effects of divorce on children, including an earlier report by the Department of Justice Canada (1997a and 1998b). Generally, these studies come to similar conclusions: divorce results in a number of emotional, behavioural and structural/environmental risk factors that contribute to negative outcomes for many children in terms of their emotional, academic and social development.

Although these findings are generally well known, it is important to review these studies and include them in this paper in order to understand the context in which high conflict divorces function. More important, these studies, when seen as a whole, show how complicated the picture is in terms of identifying and defining this phenomena called "high conflict" divorce.

This paper therefore begins with a summary of those studies which track the effects of divorce on children. This provides an overview of the identified risk factors that contribute to negative outcomes for children. The paper then explores the phenomena referred to as high risk divorces. The objective is to identify those criteria that help differentiate these relationships from those which are able to resolve the emotional issues of ending a marriage, and the practical issues of custody, access and support for the children, without high levels of hostility and bitterness.

2. TRACKING THE EFFECTS OF DIVORCE

Until the 1980s, mental health professionals appeared to be divided about whether divorce had long-lasting negative effects on children or whether it was, in fact, a benign or even positive experience for children. In the 1960s and 1970s, as many countries moved towards more liberal divorce laws, there was a prevalent belief that it was better for children to go through the temporary struggle of their parent's separation than for them to live in a family where one or both parents were unhappy.

Richard Gardner (1970: xix), known more recently for his ideas about parental alienation, wrote: "the child living with unhappily married parents more often gets into psychiatric difficulties than the one whose mismatched parents have been healthy and strong enough to sever the troubled relationship."

Several clinical studies (Felner, 1984; Felner and Terre, 1987; Peterson et al., 1984; Rutter, 1981) lend support to this position, generally concluding that pre-divorce marital discord may be a more potent negative influence on children's subsequent adjustment than the separation or divorce itself. Rutter (1981) states that child separation from his/her intact family constitutes a potential cause for short-term distress, but is of little direct importance as a cause of long-term disorder.

The idea that divorce is a transitory stress in children's lives was commented on by the 1975 Law Reform Commission of Canada (Richardson, 1996: 233), which suggested "divorce is not necessarily destructive to family life." Since many divorced people remarry, the Commission stated "divorce may sometimes offer a constructive solution to marital conflict through the provision of new and more viable homes for spouses and children."

Studies that portray divorce as a difficult transition period with relatively benign after-effects for children are in the minority. The majority of research studies show that divorce is an extremely difficult period for children and conclude that the immediate and long-term negative outcomes can be very serious.

These studies can be divided into four types:

- those which identify the specific negative outcomes for children after their parents divorce;
- those which identify the emotional, relationship and structural/environmental factors that contribute to positive outcomes for children;
- those which identify the emotional, relationship and structural factors that contribute to negative outcomes for children; and
- those which explore the connection between custody and access arrangements and outcomes for children.

2.1 Studies that list negative outcomes for children

A number of research studies have followed children after their parents divorce and found that these children show a consistent pattern of problems in their emotional, development, academic and social lives. Jacobson (1978b) connected children's maladjustment to their parents' divorce in symptomatic areas with parental hostility after divorce, including hyperactivity, learning disability, immature behaviour, psychotic behaviour, and social deviance. Amato and Keith's (1991a) analysis of 31 other studies challenged the prevalent argument that parental divorce presents few problems for children's long-term development, and concluded that children are often negatively effected by parental divorce in the following areas:

- psychological well-being (depression, low life satisfaction);
- family well-being (low-marital quality and divorce as adults);
- socio-economic well-being (low educational attainment, income and occupational prestige); and
- physical health.

In a second meta-analysis of 92 studies, Amato and Keith (1991b) concluded that parental divorce appears to be detrimental to the well-being of children in the following areas:

- academic achievement;
- social conduct;
- psychological adjustment;
- self-concept;
- social adjustment;
- mother-child relations; and
- father-child relations.

In another meta-analysis of divorce studies, Amato (1994) concludes that children from divorced families exhibit:

- more behavioural difficulties;
- more symptoms of psychological maladjustment;
- lower academic achievement;
- more social difficulties; and
- poorer self-concepts.

In a study of 121 children whose parents had divorced, Healy et al. (1993) tracked the effects of self-blame by children after their parents' divorce. Children who lived in families where there was more hostility between parents after divorce were more likely to blame themselves for the situation, and this self-blame tended to result in a lower sense of self-competence, higher rates of psychological symptoms and more behaviour problems. Similarly, adults who experienced

parental divorce as children score significantly lower on a variety of psychological, interpersonal and socio-economic indicators than do adults who grew up in intact families.

Franklin et al. (1990) conducted research to determine how divorce affects college-aged children's beliefs about marriage and personal trust. Their study of 568 university students showed that children whose parents had divorced were much more pessimistic about their own possible marriages than children from intact families. Further study showed that this pessimism was restricted to marriage and did not carry over to other areas of interpersonal trust.

Guidubaldi and Perry (1985) looked at patterns of children's adjustment problems after divorce for 699 children followed for two years. They found that children from divorced families rated more poorly in areas of social behaviour, emotional development and incidence of psychological symptoms than did children from intact families.

A Canadian survey, the National Longitudinal Survey of Children and Youth, has so far resulted in a number of reported studies of divorce, including Willms (1996), Lipman et al. (1996), Cheal (1996) and Haddad (1998). These studies are interesting since they do not generally support the findings of most other research concerning the direct link between divorce and negative outcomes for children nor the intensity of the reported negative outcomes. The exact reasons for these differences are not clear.

Willms (1996) reported that children in grades 2, 4 and 6 living in single parent families, often but not exclusively the result of parental separation, scored on average about 20 percent lower than children living in two-parent families.

Lipman et al. (1996) reported surprising results when comparing emotional, behavioural and social problems of children living in single parent families and two-parent families. This study reported that while children living with only one parent are at greater risk of developing these types of personal problems, the majority of children who show these problems live in two-parent families. The risk factor for these children is probably connected with the trend of single parent families, especially those headed by a female, to have significantly less income than other family types, and low income after divorce has been noted as a significant risk factor for children in many other studies.

Cheal's (1996) study of 875 children living with step-parents showed that these children are often stressed by the step-parent relationship, but evidence was inconclusive about whether these step-parent relationships put children at greater risk of physical abuse. This finding is not in keeping with other studies which show that step-parenting arrangements, particularly those of a stepfather with female children does put the child at more risk of abuse. The introduction of new adult partners also has been shown in other studies to be a factor that increases risk for children in terms of emotional and social adjustment related to divorce.

Haddad (1998) reported that 15.7 percent of Canadian children under the age of 12 reside in single parent families, often as the result of parental divorce, and 8.6 percent of children live either in a reconstituted family or with adults who are not their biological parents. This study showed that divorce is only weakly related to children's emotional or behavioural problems. The

study also showed that there was no significant difference in the problems manifested by children living in joint custody arrangements, those living with maternal sole custody arrangements, and those living with paternal sole custody arrangements.

2.2 Studies that identify the emotional, relationship, and structural/environmental factors that contribute toward positive outcomes for children after separation and divorce

Kurdek and Siesky (1981) identified certain factors that contribute to positive adjustment by children, including:

- defining divorce in terms of psychological rather than physical separation;
- being able to share the news with peers;
- having a positive evaluation of both parents; and
- seeing divorce as a new opportunity for strength and responsibility.

In a study of 51 families with an arrangement for joint physical custody, Steinman et al. (1985) identified a list of factors that lead to successful joint physical custody. Families who successfully maintained joint custody had the following qualities:

- respect and appreciation for the bond between the children and former spouse;
- an ability to maintain objectivity about the children's needs during difficult periods of the divorce;
- ability to empathize with the point of view of the child and the other parent;
- ability to shift emotional expectations from the role of mate to that of co-parent;
- ability to establish new role boundaries; and
- show generally high self-esteem, flexibility and oneness to help.

Buchanan et al. (1981) found that one factor, the ongoing relationship between both parents and the child, was the primary predictor of positive outcomes for children.

2.3 Studies that identify the emotional, relationship and structural/environmental factors that contribute to negative outcomes for children after divorce

Felton (1979) concluded that the children's ability to adjust to divorce was most often linked to the parent's sense of loss as a result of the divorce.

Jacobson's (1978b) study of 51 children concluded that the higher the level of parental conflict, the higher the potential for children's maladaptive behaviour, and noted that exposure to violent behaviour is the most troublesome factor for children's adjustment to divorce.

Kurdek and Siesky (1981) identified several factors that contribute to children's negative adjustment to divorce:

- parental conflict in the pre-separation period;

- defining divorce in child-oriented terms;
- experiencing problems in peer relationships; and
- viewing both parents in negative terms.

Peterson and Zill (1986) identified factors that result in negative outcomes for children:

- parental conflict in homes before and after separation; and
- poor parent-child relationships as a result of stress and preoccupation related to divorce.

Stolberg et al. (1987) identified practical and emotional predictors of children's negative adjustment to separation and divorce as:

- frequently moving houses;
- changing neighbourhoods and friends;
- changing adult partners;
- parental hostility after the divorce; and
- parental adjustment, defined as the parent's ability to parent in a continuing and constructive manner.

Kalter et al. (1989) reviewed the literature and identified six prominent hypotheses about the ways that divorce might negatively affect children. These include:

- father absence;
- economic distress;
- multiple life stresses;
- inter-parental hostility;
- parent adjustment; and
- short-term crisis.

Peterson and Zill (1986) found several links between children's adjustment and divorce:

- girls generally coped better with divorce than boys (but this was reversed when parents remarried; in those situations, boys adjusted better than girls);
- children living with custodial parents of the same sex adjusted better than children living with parents of the opposite sex; and
- problem behaviour in children increases proportionately to the conflict between parents after divorce.

Amato (1993) identified five factors that connect with the children's adjustment to divorce:

- the absence of the non-custodial parent;
- the adjustment of the custodial parent;
- inter-parental conflict;

- economic hardship; and
- stressful life change.

Furstenberg (1990), using the U.S. National Survey of Children, reported on factors that appear to increase the risk of adjustment problems for children after divorce. Two major factors are:

- economic instability and loss of income in single parent families; and
- decline in the involvement of fathers in the child's life.

Kelly and Wallerstein (1976) found that young children under the age of eight struggle with increased feelings of:

- sadness and grieving;
- fear;
- feelings of deprivation;
- fantasies of responsibility and reconciliation;
- loss of relationship with the departed father;
- stress over access visits, anger towards the custodial mother;
- conflicts in loyalty towards both parents; and
- anger at school friends in intact families.

Kelly and Wallerstein (1977), showed a strong connection between children's psychological adjustment and the overall quality of life in the parent's post-divorce family construction or remarried family. When the parents appeared settled and when stable new partners were introduced, the children managed well. However, if the parents continued to show upset, or if several difficult adult relationships were introduced into the child's life, the children continued to show distress at the same level as the first year after divorce.

Parental conflict and inter-parental hostility are mentioned often in these studies, but there is no universal definition of what these terms mean. Many of these studies rely on self reporting by children and parents, and each participant may have a different definition for parental or high conflict and also a different threshold of tolerance for this type of behaviour.

Perhaps no one in North America is more clearly associated with the study of divorce and its long-term effects for children than Judith Wallerstein. Together with her colleagues at the Centre for Families in Transition, Wallerstein has continued to study 131 children from 60 divorced families since 1970. A sample of her research studies (Kelly and Wallerstein, 1976, 1977; Lewis and Wallerstein, 1987; Wallerstein, 1987, 1991; Wallerstein and Blakeslee, 1989; Wallerstein et al., 1985; Wallerstein and Kelly, 1980; Wallerstein and Lewis, 1998) shows that children whose parents divorce tend to show the following difficulties:

- a definite tendency to underachieve at school, and this tendency continues through high school, university and into the world of employment;

- psychological problems of depression and anxiety and, for almost 40 percent, these struggles continue through adolescence and into adulthood;
- problems with drug and alcohol abuse, and this pattern continues as adults in their twenties and early thirties; and
- for those children who witnessed violence in their divorcing families, often a tendency towards violent behaviour directed at their adult partners and their own children.

2.4 The connection between custody/access arrangements and children's adjustment

In a study of 51 children, Jacobson (1978a) examined the connection between time spent with each parent and children's adjustment to divorce. She concluded that both boys and girls showed maladjustment problems when their time with the father was limited or restricted. These children showed significant problems in the areas of social, emotion and academic development.

Steinman (1981) studied 32 children living in joint physical custody arrangements over three years. This study found that the majority of the parents involved were generally satisfied with the arrangement, despite certain difficulties, while the children involved were less satisfied. These children stated clearly that they preferred marriage over divorce, even if there was conflict between the parents. They generally found joint custody arrangements inconvenient, and one-third of the children showed a significant degree of psychological distress from the joint custody arrangement.

Steinman et al. (1985) identified a list of factors found in families that experienced a negative outcome to joint physical custody:

- intense, continuing hostility and conflict that cannot be diverted from the child;
- overwhelming anger and a continuing need to punish the spouse;
- history of physical abuse;
- history of substance abuse;
- a fixed belief that the other is a bad parent; and
- an inability of parents to separate their own feelings and needs from those of the child.

Luepnitz (1986) compared 43 families living in either maternal (n=16), paternal (n=16), or joint physical custody (n=11) in an attempt to connect custody arrangements with children's adjustment to divorce. The 91 children showed little difference in adjustment based on custody arrangement. However, this study did indicate that children in joint physical custody arrangements had more normal parent-child relationships than children in sole custody arrangements, where the children's relationship with the non-custodial parent tended to become avuncular in nature.

Shiller (1985) concluded that boys who lived in a joint physical custody arrangements seemed to adjust to divorce better than those boys who lived most of the time with their mothers.

Kline et al. (1989) found that the actual custody arrangement had little effect on children's adjustment, but the parents' emotional adjustment to divorce and the post-separation child-care arrangements had significant impact on the children. In families where a parent became anxious or depressed about the divorce, the children developed a high rate of psychological and social problems. They also found that boys fared less well than girls in terms of adjustment, and that inter-parental hostility caused significant difficulties for all children, regardless of custody arrangement.

2.5 Analysis and conclusions

The studies cited in this chapter can be divided into four methodological types:

- psychometric evaluations, where children whose parents have divorced are given a battery of tests to determine the link between divorce and the children's psychological profiles;
- longitudinal studies of large sample groups, where all children in a geographic area are tested in order to draw comparisons between the profiles of children from divorced families and those from intact families;
- narrative studies, where children are interviewed and describe how their parents' divorce has affected them;
- comparative studies, which compare the outcomes for children living in various custody/access arrangements.

The psychometric evaluations have definite limitations in that they do not have initial benchmarks for showing how these children were doing before their parents separated. However, they do provide lists of risk factors that can be connected to the children's psychological, social and academic adjustment and achievement after divorce.

The longitudinal studies fall into two types: those that look at how large numbers of children are functioning over time, regardless of family type; and those that take information from large national surveys and try to draw cause and effect conclusions about the effects of divorce on children. The first type of research is very useful in that it provides benchmarks of how most children of a certain age group function at home, at school and in their communities. Unfortunately, these benchmarks are not often referred to in other studies specifically aimed at divorced families. These longitudinal studies also provide a before-and-after picture of divorcing families.

These large sample studies, including the reports from the National Longitudinal Survey of Children and Youth in Canada, often result in findings that are in sharp contrast to the findings of other small sample studies. These studies do not explain or comment on the discrepancies between the findings of different types of studies.

Another difficulty with these large-scale studies is that they do not factor out other events in a child's life when drawing conclusions about how divorce affects children. These studies are often so large in scale that it is difficult to specifically connect divorce with a particular set of

outcomes, but they are able to make general conclusions about the relationship between divorce and a group of negative outcomes for children.

The narrative studies are very limited in that they often do not use any objective criteria to measure the stress and upset described by children and parents. These studies, particularly the long-term ones, however, do offer a personal view of the lives of children of divorce.

A major difficulty with all these types of research studies is their lack of consistent use of effective measurement tools. As a result, studies use a variety of measures, including psychometric tests and self reporting. Similarly, samples are drawn from a variety of sources, including large-scale national surveys and small random samplings of clients who receive counselling or legal assistance from a particular agency. These disparities result in a research picture filled with inconsistencies and fluctuations with few accepted standards for replication. At best, this field of investigation is left with surveys that provide profiles but no hard and proven data about divorce and its complications for children. It tells us that something is wrong, but the research is not sophisticated enough to be able to accurately list, from study to study, those precisely defined factors that contribute to the negative outcomes for children.

In spite of these limitations, these four types of research, taken together, do provide a picture of roughly defined risk factors that divorce seems to set off in families and that seem to lead to negative outcomes for children. These risk factors include:

- episodes of violence;
- ongoing inter-parental conflict and hostility;
- sudden and/or frequent changes of residence and schools;
- interruption of peer relationships;
- economic hardship;
- disruption of parenting routines and abilities;
- introduction of new adult partners;
- remarriage;
- loss of contact with the non-custodial parent;
- psychological maladjustment of one or both parents; and
- loss of security and predictability.

These risk factors can be divided into two types. Episodic factors, such as changes of residence and schools, and the introduction of new partners and remarriage, can be measured each time they occur. Emotional/psychological/relationship factors, such as inter-parental conflict and the psychological adjustment of one or both parents, cannot be easily measured and require more sophisticated study in order to develop more clear definition, both in terms of frequency and intensity. Such clear definition is necessary to develop defining criteria for such things as inter-parental conflict and hostility.

Collectively, these risk factors seem directly connected to a variety of negative outcomes for children, including:

- psychological disorders (depression and anxiety);
- long-term feelings of sadness, loss and anger;
- underachievement at school and in employment;
- social problems, including deviant and delinquent behaviour;
- higher incidence of drug and alcohol abuse;
- poor parent-child relationships; and
- poor adult relationships, due to a lack of trust, and with a high incidence of early divorce.

One consistently mentioned risk factor in many studies is continued high conflict between divorced parents. Trying to understand this phenomena in the lives of separated and divorced families is the focus of the next chapter.

3. PATTERNS OF HIGH CONFLICT IN DIVORCE

When looking at negative outcomes for children, a majority of studies identify high conflict between parents as a definite risk factor for children. However, trying to identify what this term means is difficult. Is high conflict a behaviour shown by some families but not others? Is it a psychological characteristic that some people have a tendency toward in certain circumstances? Is it an emotional experience obvious only to the participants and intimate observers? Can high conflict be seen and measured by outside observers? Is the problem with high conflict the behaviour itself or the reaction of children to what they observe? Are all children equally affected, or do different children have a lower or higher tolerance for such conflict?

The children who gave video-taped or private testimony to the Special Joint Committee described conflict in behavioural terms, such as:

- one parent refusing to speak with the other when children are picked up or dropped off;
- a parent refusing to open the door to the other parent;
- parents arguing violently in their presence;
- parents insisting that they carry verbal or written communications between homes about late support payments or missed visits; and
- parents physically assaulting each other in their presence.

These children described their own emotions of fear, sadness, powerlessness and a sense of divided loyalty in these situations.

Parents also described high conflict situations in behavioural terms to the Special Joint Committee. These situations included:

- physical threats and assaults;
- access denial;
- restrictions of access to extended family members;
- withholding of support payments; and
- interfering or refusing access to information about school performance and social/recreational activities.

These parents described their own resulting emotions of fear, anger, upset and powerlessness.

Mental health professionals often describe high conflict in dynamic terms, such as anger and powerlessness, or in behavioural terms, such as domestic violence and physical, emotional and verbal abuse. Legal and judicial professionals often describe high conflict in episodic terms of court time and repeated litigation. The measures differ and are unclear, but parents and professionals agree that these disputes are expensive for the parents and use extraordinary amounts of legal, judicial and clinical resources.

Since there are no clear criteria available to differentiate between high conflict families and those struggling with the expected "normal" level of upset and conflict that follows most divorces, it is not possible to determine the exact proportion of high conflict situations in all divorces in Canada. Witnesses before the Special Joint Committee from the Department of Justice Canada estimated that 5 to 10 percent of divorces are "problematic." Other witnesses (e.g., Bala and Richardson) estimated the number of divorces involving repeated litigation over issues of custody, access and support to be between 10 and 15 percent. Some lawyers and representatives of a number of fathers' rights groups warned that using cases of litigation over custody and access as a measure was inaccurate, since many fathers do not pursue this because they believe there is a gender bias in the courts that awards the majority of orders for custody and access in favour of mothers.

Given this debate on how to define high conflict, even if the only measurable criterion is repeated litigation over custody, access and support issues, it is impossible to state how many families and children actually fall into this category of divorce situations.

Research into this category of divorce takes three forms:

- general studies that try to factor out high conflict situations and measure their effects on children;
- studies that focus on spousal violence as the main criterion for identification of high conflict; and
- studies that attempt to develop a typology of criteria for identifying these situations.

3.1. Studies of high conflict divorce and its effect on children

Raschke and Raschke (1979) compared how 289 grade school children from intact, single-parent and divorced families (when both parents were still involved in the child's life) dealt with various forms of conflict and how this conflict affected their development of self-concept. This study concluded that:

- inter-parental conflict in divorced families had the most harmful effect on the children's self-concept; and
- conflict in general had a negative effect on child development.

Emery (1982) conducted an extensive review of research to try to determine whether children from divorced families are affected differently than children from intact families by the presence of inter-parental hostility. He found first that it was difficult to determine external criteria for the concept of hostility and discord since each parent and outside observers, such as therapists and teachers, often rated this factor differently. He also found that studies based on clinical sample groups showed wide discrepancy from random sample groups when it came to reporting on family conflict and assumed this was because some type of pre-selection had already taken place in the clinical samples. In other words, clinical sample groups had a heightened awareness of conflict as a result of their previous contact in the clinic.

Emery states that it is very difficult to construct a definition of family hostility, but that three factors or criteria seem prevalent in other studies:

- the process of conflict (e.g., hitting, arguing, avoidance);
- the content of hostility (e.g., money, parenting practices); and
- the duration of the conflict.

Using these three factors, Emery found that open conflict seemed to more negatively affect children than avoidance and apathy, and that the duration of the conflict was more significant than the content of the argument. His study concludes that open hostility over time, in both divorced and married families, causes more harm to children than does indirect hostility or the subject of the conflict.

The problems shown by children in these families included:

- female aggressive behaviour;
- anti-social behaviour;
- conduct disorders; and
- anxiety.

Emery concludes that:

- open hostility over periods beyond one year are likely to cause children's problems in the form of uncontrolled behaviour;
- both girls and boys are equally affected by inter-parental hostility, but boys are more likely to show their upset in overt displays of problem behaviour;
- the child's age does not seem to be a mitigating factor when it comes to reacting to inter-parental hostility (very young children and older adolescents all show upset in these situations); and
- good relationships between one or both parents and the child mitigate, but do not eliminate, the negative effects of inter-parental hostility.

In a later study of 40 separated families, Shaw and Emery (1987) compared the effects on children of various types of inter-parental conflict after divorce. They discovered that the higher the rate of externalized hostility between parents witnessed by children, the higher the level of distress for children. When compared with other family stresses, parental conflict appeared to have the most negative effect on children, and open conflict did more harm than internalized feelings of anger.

Camera and Resnick (1989) studied how various forms of conflict and cooperation after divorce affect children. Their study of 82 divorced families concluded that inter-parental hostility and conflict, when exhibited through verbally aggressive and physically abusive behaviour, had extremely negative results for children, who in turn often showed aggressive and abusive behaviour in their own social lives.

Using a Divorce Conflict Scale to measure inter-parental hostility and a Revised Behaviour Problem Checklist to measure children's adjustment, Long et al. (1988) concluded that inter-parental conflict over time has a negative effect on boy's academic achievement and social behaviour. This research found that the higher the level of overt inter-parental conflict, the higher the level of aggressive behaviour by the boys.

Nelson (1989) studied a group of 121 families for three years after their divorces to look at the relationship between joint and sole custody arrangements and the levels of hostility, conflict and cooperation. She concluded that:

- joint custody arrangements, because of the more frequent contact between parents, showed higher levels of conflict and hostility; and
- episodes of spousal violence was an accurate predictor of post-divorce conflict, regardless of custody arrangement.

Criteria for high conflict included:

- feelings of intense bitterness;
- frequent re-litigation; and
- episodes of verbal aggression and/or physical abuse.

Mathis (1998) investigated why certain families seem to fail in divorce mediation and concluded that failure was about 75 percent higher in situations when one or both parents remained "undifferentiated" from the other and each still thought of themselves as "we" rather than "you and I." These parents often had failed to become autonomous after the divorce and had poor boundaries in relation to the other parent; in other words, these parents often could not accept the dissolution of the marriage and still wanted active involvement with the other parent. The more differentiated parent, the one who had been able to establish a self-sufficient life after divorce, often resented the sense of intrusion by the other parent and became less cooperative and more hostile. Mathis concludes that a measurement of differentiation at the point of mediation would be a useful tool for dispute resolution.

One of Wallerstein's colleagues, Janet Johnston, has conducted several research studies of high conflict divorce. Johnston, Gonzalez and Campbell (1987) traced the connection between levels of post-divorce conflict and psychological and behavioural disturbances in 56 children from age 4 to 12. The study used three criteria to identify conflict:

- the amount of verbal and physical aggression between parents;
- the involvement of the children in the dispute; and
- the length of time the disputes continued between parents.

Children's involvement was measured in terms of passive involvement (being present when the arguments or violent episodes took place) and active involvement (being asked or encouraged to pass abusive messages back and forth between parents).

The study concluded that high levels of hostility between parents resulted, at the early stages, in high levels of depression, withdrawal, somatic complaints and aggressive behaviour in their children. Longer periods of inter-parental hostility became accurate predictors of long-term adjustment difficulties for children.

Johnston, Kline and Tschann (1989) studied 100 families selected on the basis of entrenched disputes over custody and access over four years to investigate the effects on children. These families had been unable to resolve their differences about custody and access through attorney negotiations and the brief mediation service mandated by the California courts. The study concluded that while the actual custody arrangement had little effect on children's adjustment to divorce, children in joint physical custody arrangements were more likely to be exposed to inter-parental conflict and, therefore, more likely to show negative outcomes as a result of this exposure. These children showed:

- higher signs of depressed, withdrawn and uncommunicative behaviour; and
- tendencies towards aggressive behaviour.

This study also focussed on the content of the disputes and discovered that:

- the more both parents shared access with the children, the more they tended to get into conflict over access issues; and
- older children were more likely to become enmeshed in the parental conflicts.

The study concludes that legislative initiatives towards presumptions of joint custody need to take into account research on how such presumptions affect children.

3.2. Developing typologies of inter-parental conflict

Several clinicians have developed typologies of inter-parental conflict. Most of these are designed to enhance clinical understanding of post-divorce conflict and are not meant to be a tool for identifying or streaming of high conflict couples. These types of studies, which result in lists of psychological patterns or relationship constructs identified as typical in divorcing families, give clinicians advanced warning signs of hard to serve clients.

Kressel et al. (1980) compared a small sample group of divorcing couples using mediation (n=9) and others using traditional litigation (n=5) to develop a typology of divorcing families. The study identified four patterns that affected outcomes in mediation and led to decisions to litigate. These are:

- the enmeshed pattern, based on high levels of conflict and high ambivalence about the decision to divorce;
- the autistic pattern, with little overt conflict between the parents and a tendency for them to avoid each other and also avoid difficult and painful issues;
- the direct-conflict pattern, with high levels of overt conflict, but not as high as the "enmeshed" couples, and a tendency towards open and direct communication; and

- the disengaged conflict pattern, with low levels of ambivalence about the end of the marriage (these couples had already been able to resolve issues of ending closeness and intimacy).

The study concludes that couples who are most ambivalent about the end of the relationship are most likely to become involved in high levels of overt conflict over issues of settlement, including support, custody and access.

Using a larger sample group of 80 disputing families, Johnston et al. (1985) investigated a typology of difficult divorce situations that were vulnerable to intense and prolonged periods of inter-parental hostility and conflict. They concluded that certain external and interactive elements contribute to the likelihood of high conflict family situations.

The external elements included:

- unholy alliances and coalitions, by which disputes can be solidified and stabilized by the supports of friends and professionals, such as lawyers and counsellors;
- extended kin involvement and tribal warfare, when old disagreements from the beginning of the marital relationship become part of later disputes over the children;
- coalitions with helping professionals, counsellors and lawyers, by hearing only one side of the story, fuel the argument by suggesting that the "victim" take aggressive and uncompromising stances; and
- the involvement of the legal system, i.e. the adversarial system with custody seen as a prize.

The interactive elements include:

- the legacy of a destructive marital relationship when parents use the same destructive patterns of provocation and retaliation from the marriage in their dispute over custody and visitation matters;
- traumatic or ambivalent separations, i.e. transferring negative views from the marriage to the new reality of the separation and making assumptions about one's ability to provide child-care based on the marital interactions;
- negative reconstruction of spousal identity, i.e. redefining the spouse in completely negative terms to compensate for the hurt or the decision to separate; and
- idealized images and shattered dreams, in which anger and despair over the marriage results in a super-idealized view of the marriage and its memories.

Intra-psychic elements include:

- separation-engendered conflicts, such as conflict as a defence against a narcissistic insult (the custody conflict as a way to salvage injured self-esteem); conflict as a defence against loss (the custody seen as a way to ward off loneliness); conflict as a need to ward off helplessness (as a way to compensate for the loss of control over the decision to separate); and conflict as a defence against guilt (custody seen as proof that the parents did not fail in the marriage);

- personality disturbances and character disorders, i.e. cases when the motivation for the dispute seems more from inherent personality traits of the parents and their conceptions of themselves than from the experience of the separation or the need for the child;
- the parent's need for the child, when the children take on a magnified importance for the parent and become a primary source of support and meaning for the parent.

Taking into account more recent knowledge about domestic violence and the incidence of spousal violence in custody and access disputes (discussed in the next section), Johnston and Campbell (1993) proposed a typology for violence in families disputing custody. Their five types of violence are:

- ongoing or episodic male battering;
- female initiated violence;
- male controlling interactive violence;
- separation and divorce violence; and
- psychotic and paranoid reactions.

This list is designed to help clinicians differentiate between various types of divorce related violence and is a tool in assessing the severity of violence when considering access issues. This type of differentiation has resulted in significant debate among professionals, with some arguing that such distinctions undermine current initiatives to take all forms of domestic violence equally seriously. These critics argue that any form of violence is reason for limited or supervised access, and should preclude any involvement of the violent parent in future decision-making for the child (Dalton, 1999).

Garrity and Baris (1994) developed a typology for identifying post-divorce conflict as an aid in assessing various custody and access arrangements for children. This model identifies elements of varying degrees of conflict, and recommends custody and access arrangements for each level based on the child's age and emotional development. The degrees of conflict and characteristics of each are:

- minimal conflict: cooperative parenting; ability to separate children's needs from own needs; can validate importance of other parent; conflict is resolved between the adults using only occasional expressions of anger; and negative emotions quickly brought under control;
- mild conflict: occasionally berates other parent in front of the child; occasional verbal quarrelling in front of the child; questioning child about personal matters in life of other parent; and occasional attempts to form a coalition with child against other parent;
- moderate conflict: verbal abuse with no threat or history of physical violence; loud quarrelling; denigration of the other parent; threats of litigation; and ongoing attempts to form a coalition with child against other parent around isolated issues;
- moderately severe conflict: child is not directly endangered, but parents are endangering each other; threatening violence; slamming doors, throwing things; verbally threatening harm or kidnapping; attempts to form a permanent or standing coalition with child against other parent (alienation syndrome); and child is experiencing emotional endangerment;

- severe conflict: endangerment by physical or sexual abuse; drug or alcohol abuse to point of impairment; and severe psychological pathology.

This range of assessed conflict can be used to make recommendations concerning primary residence, access and decision-making for different age groups of children.

Eric Hood is a psychiatrist who has been conducting court-ordered family assessments at the Clarke Institute for more than 20 years. He told the Special Joint Committee on Child Custody and Access that he is skeptical of attempts to identify measurable criteria to define high conflict divorces. He sees this as an attempt by the mental health professionals who conduct assessments to appear scientific and more professional when they have to appear in court to defend their reports. Hood stated in a telephone interview that identifying high conflict begins with the assessor wondering why this case cannot be settled? Hood noted three clear signals that indicate settlement problems:

- several changes in legal counsel, which may indicate that the client cannot take advice;
- the number of times a case has gone to court; and
- the overall time it takes for a case to be settled.

Hood cautions that these should be seen as indicators, not predictors, of high conflict divorce.

Nicholas Bala, professor of Law at Queens University and another witness before the Special Joint Committee, is also wary of establishing fixed criteria for high conflict divorces. He worries that fixed criteria can have a labeling effect that limits alternatives for problem resolution. Bala stated in a telephone interview that a range of interventions is required for the entire divorced population. These include:

- counselling and therapeutic resources available for the parents and the children (since divorce is primarily an emotional issue);
- educational programs to teach parents and members of extended families about the hazards of divorce and conflict for children;
- a case management system whereby one judge assumes judicial control for a case from start to finish;
- parenting assessments to determine the best interests of the child and each parent's ability to meet those needs; and
- supervised access and exchange programs for situations where there is a history of violence.

Bala believes that the definition of high conflict is not as critical as the process that tracks and steers the divorce process and provides a range of services for all divorcing families.

Robbie Behr and Charlene Lafleur-Graham of the Family Law Support Services in Saskatchewan see parenting assessments as a channel for differentiating high conflict divorces from other less contentious situations and steering them to specialized services. The indicators of high conflict situations include:

- police contact for violence and access enforcement;
- a history of violence, which needs to be assessed as either episodic or ongoing; and
- referral to professionals for problem solving.

In a telephone interview, Behr and Lafleur-Graham stated that divorcing families require a range of services based on individual need, including:

- individual and group counselling and therapy;
- children's mental health services;
- child welfare protection services;
- supervised access and exchange;
- parenting education programs, available to all but mandatory for high conflict families; and
- mediation available for low conflict situations.

The Saskatchewan Family Law Support Services program uses the Garrity and Baris scheme to explain their recommendations about parenting plans to judges.

Rachel Birnbaum and Lorraine Martin of the Ontario Office of the Children's Lawyer consider most of the cases referred to their agency as high conflict situations. They have been attempting to use the Garrity and Baris scale to differentiate between high, medium, and low conflict situations and steer families to the appropriate level of service. In addition to the elements identified by Garrity and Baris, Martin has developed a list of other factors to be included in these assessments. These are:

- traumatic separation, i.e. how the marital separation occurred and the resulting narcissistic wounding of one of the partners;
- a history of violence;
- the existence of affidavits with harmful content against the character of the other parent;
- evidence of conflict maintenance behaviour patterns;
- much lawyer chatter over inconsequential matters;
- inability to say anything good about the other partner;
- one parent enmeshed with the child; and
- one parent reporting being duped or tricked into the marriage and thus without good memories.

Martin and Birnbaum's main focus in this assessment-steering process is the question: what resources would allow the parent-child relationship to continue? The assessments, which are interventions in themselves, result in the families being streamed into four types of service responses, based on the premise that, in most cases, it would be beneficial for the child to have the relationship with both parents continue. Martin and Birnbaum's four types of service responses are:

- parent education, i.e. skill teaching programs that have significant useful effects as early interventions with low conflict families, rather than merely information programs, which have limited intervention effect;
- counselling and therapy which, as follow-up studies show, is frequently recommended for early intervention with low and medium conflict cases but is also rarely attended;
- mediation, seen as a useful intervention with medium conflict families, even though Martin and Birnbaum maintain that specific research is needed to look at long-term outcomes;
- public interest advocacy on behalf of the child, used with high conflict families when the child's well-being is tracked.

Rhonda Freeman is the director of Families in Transition, a Toronto-based program for separated, divorced and remarried families. From her clinical work, she has developed a profile of both minimal and high conflict families.

Minimal conflict families report:

- a resolution of personal issues;
- respect for the other parent;
- no risk of violence;
- improvement in child functioning after an initial period of adjustment;
- both parents committed to a parenting plan;
- both parents respect the other parent's value to the child;
- parents can separate their own needs from those of the child;
- tolerance for differences; and
- flexibility to cooperate by parents.

High conflict families show:

- an inadequate separation of marital and parental roles;
- unresolved personal issues;
- high risk and a history of violence;
- distrust of the other person as a parent;
- risk of parental alienation;
- distorted perspectives and a revisionist history of the family;
- major narcissistic injury;
- significant hazards to the child;
- frequent transfers;
- new partners;
- practical child-care;
- substance abuse;

- psychiatric disturbance;
- power/control abuses;
- high stresses, helplessness;
- increased child welfare allegations and the introduction of suspicions;
- poor communication;
- polarized positions; and
- rigidity and lack of cooperation.

Although there is no research connecting high conflict with various intervention outcomes, Families in Transition links low and medium conflict families with therapy and educational programs, and connects high conflict families with mediation services.

Lena Jones has a Masters degree in Psychology and has been conducting parenting assessments on a fee-for-service basis in Ottawa for 29 years. Although she does not use a formal written framework for defining levels of conflict, she has a mental framework to identify the severity of conflict in the families she assesses.

For her, high conflict situations may have the following elements:

- involvement of mental health, addictions and child welfare agencies;
- criminal behaviour by one or both parents;
- abusive, violent behaviour;
- kidnapping of the child;
- stalking by one parent; and
- out of control behaviour.

Medium conflict situations tend to have the following elements:

- chronic disputes over custody, access and support;
- poor control by one or both parents;
- conflict without violence;
- involvement of lawyers for even minor issues;
- poor problem-solving abilities;
- fights and arguments in front of the child;
- a tendency for one parent to blame the other;
- a tendency for one or both parents to take everything personally;
- inability to see what the child needs;
- boundary violations and manipulations;
- recruitment of relatives into the dispute; and
- frequent telephone calls to the other parent.

Jones' moderate conflict situations have the following elements:

- parents work together but with only limited success;
- occasional use of outside professionals;
- verbal abuse and disrespectful behaviour towards the other parent;
- manipulation of the child, and possible parental alienation;
- deliberate sabotage of parenting agreement;
- rigidity and poor flexibility about minor details of the parenting plan;
- possessiveness concerning the children; and
- devaluing the other parent's importance to the child.

Low conflict situations include the majority of divorcing families and most are successful with only occasional flare-ups.

Jones uses this framework in developing parenting plans as follows:

For high conflict families:

- no mediation;
- question whether there should be any access at all;
- access is limited and often supervised; and
- some situations may require supervision by a trained therapist.

For medium or moderate conflict families:

- a parenting plan that is precise and detailed;
- use of parallel parenting with little contact between parents; and
- little discretion in the details of the plan.

For low conflict families:

- suitable for mediation;
- use of cooperative parenting plan; and
- use of guidelines rather than details.

Jones believes that medium and moderate conflict families would benefit from the type of parenting coordinator suggested by Garrity and Baris, and believes this service should be attached to the courts to provide easy and immediate access for families struggling with a particular decision.

Janet Claridge is an MSW in Ottawa with approximately 20 years experience working with children and families. For the last nine years, she has conducted assessments for the Ontario Office of the Children's Lawyer. She believes the majority of families who come for

assessments are already in a high conflict situation. These families have perhaps tried less confrontational methods of making arrangements for custody and access, such as mediation, without success. Claridge stated in a telephone interview that high conflict families show certain characteristics, including:

- conflict that exists over long periods of time;
- parents who remain enmeshed and show little independence or autonomy from each other;
- extreme distrust between parents;
- strong feelings of threat from the other parent;
- frequent use of accusations about abuse and neglect;
- use of physical threats or intimidation; and
- no willingness to compromise and a strong sense of a need to win.

Claridge does not use any strict format in assessing the degree of conflict, but she does make certain recommendations for parenting plans based on this factor. For her, parenting plans for high conflict families require:

- a great amount of detail with little or no flexibility in the arrangements;
- a need for parents to be instructed on how to respond to the child and the other parent in a variety of situations;
- minimal contact or communication between parents;
- regular routines;
- a primary parent for decision-making, although this may still allow an equally shared residence; and
- limited joint involvement in community activities or with professionals.

Parenting plans for low conflict families often include:

- provision for joint custody around decision-making;
- flexibility around schedules;
- more communication and cooperation between parents;
- less direction and detail in arrangements; and
- the involvement of both parents in meeting professionals and attending community activities.

Claridge says high conflict families benefit from the availability of community resources, including:

- supervised access and exchange programs;
- anger management programs;
- counselling and therapeutic services;
- child welfare services; and
- services, such as the Office of the Children's Lawyer, to ensure that the child's voice is heard.

Claridge states that parenting education programs often do not work for high conflict families because one parent uses the information to fuel their dispute with the other parent.

Susan Woolam is an MSW working with children and families in Ottawa since 1986. She has been conducting family assessments for the Ontario Office of the Children's Lawyer since 1997. She sees that parents caught in high conflict situations have certain characteristics, including:

- limited ability to understand relationship issues;
- a tendency to be reactive rather than reflective in their thinking;
- a generalized anger towards life and not specific to the marital separation;
- bitter feelings towards the other parent;
- poor communication skills;
- a tendency towards enmeshment rather than autonomy; and
- a tendency towards inflexible beliefs about the other parent.

According to Woolam, the high conflict situations have certain characteristics:

- the argument may be about almost anything, especially subjects that are beyond litigation (such as anything having to do with the meals at the other parent's home);
- violence, actual or threatened;
- constant use of police and restraining orders with no or minimal cause;
- an inability to transfer the child without verbal fights or unrealistic restrictions on people in the other parent's life or extended family;
- false allegations about abuse, alcohol or drug use, or criminal activity; and
- constant disputes about unmeasurable or unprovable items.

In a telephone interview, Woolam stated that parenting plans for high conflict families need:

- a great amount of detail concerning scheduling;
- strict boundaries between parents; and
- minimum changes to decision-making or residence.

Low conflict families are able to manage joint custody arrangements and more flexible schedules. High conflict families are often referred to support and counselling programs for the children, anger management programs for overly controlling or abusive parents, and personal counselling and therapy for the individual parents. Woolam is an advocate of divorce education programs, but she also acknowledges that some parents in high conflict situations use the information from these programs to fuel their dispute with the other parent.

Sally Bleecker is a clinical social worker who has worked as a family therapist in Ottawa since 1977. She has conducted custody/access assessments on a fee-for-service basis since 1990. Bleecker agrees that there is a pre-selection of high conflict families who come for

custody/access assessments: only those families who are in conflict situations use this kind of service.

According to Bleecker, high conflict families show the following individual, relationship and structural characteristics:

- a high degree of rigid thinking;
- a tendency towards either/or thinking;
- a history of prior mental health problems;
- a sense of being wronged in the marriage;
- a sense of personal threat;
- a conflict that stems from a highly competitive marital relationship;
- a win/lose mentality;
- a history of violence;
- a tendency to see the children as territory;
- a sense of perceived inequality and injustice;
- a sense of powerlessness in the relationship;
- a social audience of friends and family who support the custody dispute; and
- an external source, often family, for money to maintain the legal fight.

Bleecker also recognizes a number of indicators that give advanced warning of high conflict situations, including:

- a lengthy history of legal involvement in the dispute;
- a frequent change of lawyers;
- the amount of affidavit material;
- the number of outside agencies involved in reports of child welfare concerns; and
- the duration of the dispute.

Like most other assessors, Bleecker does not use any research or literature references in identifying the level of conflict in the families she sees. She relies on her own observations from a series of meetings with the parents, with the parents and children together, and with the children alone. In these interviews, she determines which are the high conflict situations by noting the following characteristics in the responses she receives:

- a history of access denial;
- threats to relocate or change jurisdictions;
- total denigration of the other parent;
- a complete devaluation of the child's need for the other parent; and
- a pattern of rigid parenting roles that goes back to the marital relationship and limits the involvement of the other parent.

In medium conflict situations, Bleecker feels that the issues are most related to daily routines and somewhat mundane matters; and that there are only minor battles for control over activities.

These interviews enable Bleecker to recommend different parenting plans for high and medium conflict families. High conflict parenting plans must include:

- minimal or no contact between parents;
- detailed firm schedules that require no negotiation between parents; and
- limited access for one parent.

Parenting plans for medium conflict families require:

- use of clear schedules;
- specific details for exchanges of children, using neutral places such as schools and day-care centres;
- use of a "communication book";
- autonomy for each parent's time with the children, so there is no expectation of overlap between the routines at each home; and
- recommendations for therapy and counselling.

Bleecker considers joint custody an arrangement for lower levels of conflict, and even in those situations, she believes there must be a clear delineation of the child's developmental needs for both parents to respect and understand.

High conflict families often require referral to community resources, and Bleecker often refers to:

- therapy and support groups for children and parents;
- supervised access and exchange programs;
- services, such as the Office of the Children's Lawyer, for ongoing monitoring of the situation; and
- the use of supportive grandparents when they are available.

Arthur Leonoff is a clinical psychologist who has been in practice since 1973 and has conducted custody/access assessments for 20 years. In his view, the main challenge in doing assessments is being able to see beyond the present level of upset and conflict, and predict parenting ability "once the dust settles."

In a telephone interview, Leonoff stated that conflict is not the issue in assessments; it is the observable symptom of what parents are able or unable to do together for their children. He does see some distinction between higher and lower levels of conflict:

- a high level of conflict means that parents can do little together and, therefore, assessments should ask little in the way of cooperative parenting;

- a lower level of conflict means that parents can do more together and, therefore, they can be asked to do more in the way of cooperative parenting.

When Leonoff is looking at a couple's capacity to parent cooperatively, he looks for certain characteristics in them, namely:

- a history of being able to resolve at least some things for the children;
- their ability to distinguish between themselves as parents and as partners;
- their capacity to separate their own needs from the needs of the child; and
- the extent to which they can manage the conflict, whatever its level.

Leonoff says that his recommendations for parenting plans do not evolve directly from the assessor's evidence: they must encompass what is already evident in the history of the relationship and the parenting of the children. He considers two factors important in developing parenting plans:

- if the conflict matters less than the couple's ability to parent together, then there can be shared care and control; and
- if one parent negates and dismisses the other parent's input and value, then there needs to be a protection of access rights.

Leonoff refers to a number of community resources in his parenting plans, including addictions services, parenting courses and services for ongoing counselling.

In Leonoff's opinion, supervised access programs only provide a short-term solution.

4. INTERVENTIONS FOR HIGH CONFLICT DIVORCING FAMILIES

Three types of interventions for divorced families are frequently reported on in the literature: counselling and therapy; mediation; and parental education programs. Some authorities, such as Birnbaum and Martin of the Ontario Office of the Children's Lawyer and Behr and Lafleur-Graham of the Saskatchewan Family Law Support Services, also consider parenting assessments in their list of possible interventions.

Counselling and therapeutic initiatives are not new and are the most traditional community-based services that divorcing families use. Mediation and education programs, both relatively new, are seen as resources that can divert divorcing families out of court litigation to other forms of conflict resolution. Assessments fall into a grey area where legal and therapeutic services mesh, and are often seen as the gateway to other legal and therapeutic solutions to family disputes.

4.1 Counselling and therapeutic programs for divorcing families

When families separate and divorce, a common first step for many parents and children is to seek counselling or therapy. These services are community-based and are provided by a range of mental health professionals, including social workers, psychologists, pastoral counsellors and psychiatrists. Counselling services for divorced families are available through social service agencies, voluntary organizations, church groups and private practitioners. They are available on an individual or group basis. Fees vary from nil for voluntary and church-run programs to a sliding scale based on income for many social service agencies, to full fee when the client pays the therapist directly. Some extended care benefits through employers help defer the costs for private practice fees.

Although many family lawyers ask their clients if they would like to meet with a therapist or counsellor to either consider the possibility of reconciliation or work through their feelings about the separation, counselling and therapy programs are voluntary and, therefore, there is no prior screening of clients coming into these programs.

The majority of therapeutic interventions reported on in the literature have to do with small, relatively untested, programs. These are clinical initiatives developed out of the experience and expertise of therapists and counsellors working with separated and divorced families. Some are developed as pilot projects to be used as a basis for funding applications to government and community funding groups, such as the United Way. Other research projects are simply descriptions of clinical models that demonstrate good rates of effectiveness.

Articles reporting on counselling and therapy models most often focus on clinical issues related to divorce and parental and child adjustment. Such articles, like those described earlier in this report, view divorce as a discrete event in the life of a family and report on its after-effects. Clinical in nature, they also are based on a cause and effect analysis. They start with parents and children going through separation or divorce. The authors usually summarize the effects of divorce, as in the literature on a specific area of functioning, such as children's adaptation as

measured by academic achievement. They then devise a research model in which groups of clients attending a counselling or therapy program are measured before and after in order to show the positive effects of the service being provided. Some of these articles simply report on before and after measures for the participants, while research models use a control group (usually clients still waiting for service) and *compare* the results for the participants in the clinical program with those for the control group.

Judith Wallerstein (1991) found in her research that the two most important factors for children's positive adaptation to divorce are the sensitivity and commitment of the parents to the child, and the intactness and morality of the parents. The two factors that contribute most towards negative adaptation are ongoing parental conflict, and the impaired mental health of a parent.

Wallerstein (1991: 452) concludes that mediation is a useful process for helping families avoid the economic and psychological stresses connected to divorce, but that "restorative" programs also are needed to help the child "restore those crucial supportive elements of the family that can be rescued and adapted to fit the exigencies of growing up in the divorced and remarried family."

Wallerstein and her colleagues (1985) tested a number of counselling/therapy programs and concluded that programs which assess and address issues related to the parent's ability to parent effectively are most useful to children. Further, they concluded that such programs require clinicians with sophisticated skills and experience.

Lee, Picard and Blain (1994) reviewed 15 studies of clinical programs designed for divorcing families. They found that most studies of program effectiveness used the waiting list as the control group, and that group programs for children and adults were slightly more effective than individual programs. They also found that programs aimed at parents were much more effective than programs aimed at children. Finally, they concluded that one of the main difficulties in measuring effectiveness of programs for divorcing families is the lack of any baseline measurements of how families in general are doing with non-divorce related stresses.

Grych and Fincham (1992) examined the connection between commonly noted effects of divorce on children and various clinical interventions. They examined how child-focussed interventions affected factors such as externalizing problems, internalizing problems, interpersonal relations, academic problems, and children's use of mental health services. This research reviewed the following three clinical programs in the United States.

The Children of Divorce Developmental Facilitation Group is an eight-session program aimed at normalizing the experience of divorce, clarifying and working through upsetting and confusing issues, and developing coping strategies for difficult feelings and family interactions.

The Children of Divorce Adjustment Project is a 12-week group program for children and mothers aimed at normalizing the divorce experience, understanding and working through divorce related feelings, developing coping strategies, and enhancing parent-child communication.

The Children of Divorce Integration Project is a school-based program aimed at helping children understand and cope with divorce related feelings, and enhancing children's perceptions of themselves and their families.

The Grych-Fincham study concludes that effective parenting is the most important factor in helping children adjust to divorce, and that programs which focus on building skills for parents, such as those used in the study groups, are more effective than programs which develop understanding for parents and children. They also conclude that more research focussed on establishing effective connections between adjustment problems and types of interventions is necessary.

Reporting on the Children of Divorce Adjustment Project, noted above, Pedro-Carroll et al. (1986) conclude that this school-based program was effective as a preventative measure. Using before and after measures, the study demonstrated that children showed fewer anxiety problems, school adjustment problems and more positive ratings of self-esteem and self-confidence after the program had been completed. This study, like many other investigations of clinical programs, based its conclusions on the children's positive reaction to the program. There was no control group in this study and only short-term follow-up of the participants.

Bornstein, Bornstein and Walters (1988) examined the effects of a group-based therapeutic program for 31 children of divorce. Their study showed no clear differences for those children who attended the program compared to those children still on the waiting list. They concluded that more sensitive measurements may be required for this type of focus group.

4.2 Analysis of the research of clinical programs

This small sampling of the research studies of various clinical programs for separated and divorced parents and children demonstrates that they have several design problems.

First, small-scale studies make it difficult to draw conclusions about how various models of intervention might work with larger populations. Most often, these studies focus on the limited number of adaptation factors that program participants report after attending a limited number of program sessions. The studies will show that a specific type of group seems to result in a specific after-effect for participants, but there is no analysis of why this works. Without considering such factors as the style of the group leader, for instance, it is impossible to predict how this program would work with larger groups.

Second, in these studies there is usually no analysis of pre-existing family and social factors. Participants usually come to the programs on a voluntary, first come-first served basis. They are given a set of before and after tests, usually focussed on children's adaptation and parents' functioning, and these results are compared to those from the control group, usually families still on the waiting list for service. These studies do not examine how those families are functioning on a larger scale and how the children are functioning compared to other children from non-divorced families.

Third, there is no attempt in these studies to identify the level of conflict in families and determine how these therapeutic programs help children and parents struggling with various levels of conflict. Because comparisons are limited to the control group, for which there is also no indication of level of parental conflict, it is not possible to determine how these families are helped with a therapeutic intervention compared to other families with similar levels of conflict who are involved in other types of programs.

Fourth, there is rarely any follow-up of results, and in the few studies where there is, it is brief. These reports simply do not tell us how these families fare over time and how the benefits of the therapy remain useful.

Finally, these small-scale studies do not factor in the effects of other events in a child's life, such as having to change schools, moving to other neighbourhoods or cities, missing friends, and experiencing the remarriage of one or both parents. In the research noted in Section 2, these effects are often significant predictors of a child's adjustment to divorce. These clinical studies assume that the only factor that brings about positive outcomes for parents and children is the therapy offered.

What is needed now is a comprehensive research study that begins with an inventory of pre-existing emotional and structural factors, such as those identified in the studies reviewed in Section 2.

4.3 Mediation programs

The Special Joint Committee on Child Custody and Access heard a great deal of testimony about the possible benefits of divorce mediation in terms of providing an alternative, less expensive, less adversarial forum for dispute resolution. Many witnesses argued that mediation should be a mandatory first step for separating families, and called attention to such programs in Quebec and British Columbia. The Committee also heard concerns about the possible negative effects of mandatory mediation, particularly in families with a history of domestic violence. Some witnesses argued that mandatory mediation would provide an arena in which violent and abusive partners could continue to harass and intimidate their former spouse. The views expressed to the Special Joint Committee reflect the community ideas about mediation.

In the early 1980s, divorce mediation was introduced as a popular alternative to the more traditional court-based method of resolving issues of custody, access and support. This alternative to litigation was seen as less expensive, less adversarial and more effective in helping divorcing parents resolve their issues. The idea of engaging separating parents in a cooperative venture of negotiating a parenting plan for their children became increasingly popular, and several jurisdictions, including Quebec, British Columbia, several U.S. states and countries such as Great Britain and Australia, have introduced mediation as a mandatory step for all divorcing couples.

In spite of its popularity, however, many women's groups have argued that mediation is not appropriate for families when there is a history of domestic violence. Further, feminist critics

have suggested that many women cannot negotiate from a position of equal power in the mediation process.

Although many articles in the literature point out the need for studies to determine the effectiveness of both voluntary and mandatory mediation programs (Irving, 1987), reports of such studies are difficult to find. The reason may be that there are simply too many variables to consider in such a study.

Camplair and Stolberg (1990) attempted a comparative study of 76 couples who were randomly assigned to either mediation or litigation of their divorce issues. All participants were tested for various factors and dynamics before their process was started, and then the results of each process were measured upon completion.

This study outlines the many problems inherent in research on the effectiveness of mediation. First, the initial testing looked at the content of the dispute, the history of appearances in court, co-parenting behaviours and levels of co-operation, overt marital hostility, family adaptive functioning at given moments in time, the couple's overall adjustment to current life status, and the family's adaptation to change. This early testing provided a wide and almost unmanageable number of factors to consider before the mediation or litigation even began. It did not take into account the children's adaptation to divorce or other matters such as remarriage, changing residences, changing schools, etc. After the mediation or litigation was completed, couples were tested in an attempt to measure the effectiveness of the process. This study could not connect any given pre-process factors with specific outcomes, and was inconclusive about whether mediation was more effective than litigation in resolving issues. And, there was no follow-up study of participants.

This study does reveal some of the difficulties in trying to measure the effectiveness of mediation. First, what predetermining factors need to be identified in the participants? Second, what process related factors, such as the mediator's experience and style and the issues to be resolved, should be included and measured, and how is it possible to form correlations between these factors? Finally, how does one measure success?

Some studies (Emery et al., 1991; Emery et al., 1994; Kelly and Duryee 1992) show that, despite the efforts in mediation to move away from a winner-loser scenario towards a more cooperative view of parenting, one or the other parent still often has a sense of having lost the battle. Whether this sense of losing allows mediated parenting arrangements to remain intact is unclear, but the Emery et al. (1994) study of 54 divorcing men and women concluded that the majority of these parents returned to court for litigation within one year of a mediated settlement.

Pearson and Thoennes (1984) compared outcomes for 668 couples referred to mediation against outcomes for 212 who used litigation to resolve custody issues. Half of the couples referred for mediation refused the service, opting to pursue litigation to resolve their issues. Of the remaining families, 60 percent reached some agreement of their issue, but 40 percent of these reported a breakdown in mediated agreement within one year. This is significantly different from Irving's (1984) research in Toronto, which concluded that only 10 percent of mediated cases returned later to litigation of the matter.

Pearson and Thoennes (1984) conclude that further research is required on how to work effectively in mediation with high conflict couples and to explore whether the often stated goal of mediation and joint custody is actually a sustainable option for many families.

4.4 Analysis of mediation programs

Should we therefore conclude that mediation is ineffective? Perhaps not, but these studies do indicate a need for pre-selection of mediating families. As with the counselling and therapeutic programs, further study is required to investigate how effective mediation is with families struggling with different levels of conflict. Other emotional and structural factors also need to be identified and included in order to get an accurate picture of mediation's potential. Research that looks at process variables and possible correlation to predetermining factors and mediation content will also suggest ways to make this intervention most effective.

These studies demonstrate how difficult it is to isolate the specific effects of one intervention. The families who participate in these studies do not live in total isolation. They have friends and extended families, they go to church, and they sometimes talk with counsellors and therapists. To determine whether mediation itself is effective, it is necessary to account for these other relationships.

Finally, long-term follow-up with these families is necessary. The studies noted in this project did not follow the families beyond the exit interview or test. We simply do not know how many mediation families return later to mediation, how many give up and begin litigation, and how many find other ways to solve the problem. The discrepancies between Irving's (1984) study and Pearson and Thoennes (1984) and Emery et al. (1994) show a definite need for further research.

5. EDUCATION PROGRAMS FOR DIVORCING FAMILIES

The Special Joint Committee on Child Custody and Access heard from several witnesses who extolled the value of education programs for divorcing families. These witnesses promoted the idea that if parents were made aware of the overall dangers of divorce for children and the specific harm caused by high conflict, the effects of both could be reduced. In other words, divorce education was seen as a preventive measure that might steer some families away from divorce and help others avoid escalating their differences into high conflict situations. Proponents of this intervention suggest that it is a relatively low cost solution to divorce conflict, and some claim that education programs can be offered in the form of videos, thus making this intervention available in distant and isolated communities.

Critics of these education programs caution against expecting too much in the way of either prevention or solution to divorce hostilities in most families. These critics, including Rhonda Freeman of Families in Transition and Birnbaum and Martin of the Ontario Office of the Children's Lawyer, point out that many education programs offer information only about the divorce process, options such as litigation and mediation, and perhaps some of the associated emotional hazards for children. These programs, the critics say, are not truly educational, since they do not help divorcing parents learn new skills to deal effectively with their children in this new life situation.

These programs do have a high satisfaction rate from participants, however. Kramer and Washo (1993) found that a significant majority of 168 participants in a group program (which includes two 90-minute group sessions, followed by six group viewings of video programs) reported a high rate of satisfaction with the program. The participants claimed that the program helped them deal with their children's needs more effectively, and this group, when compared to a control group three months after the program, scored higher on child management and personal adaptation to divorce. This study did not look at how custody, access and support issues were eventually resolved, nor did it identify the level of conflict in these families.

Arbuthnot, Poole and Gordon (1996) designed a project in which 3,658 families who had registered with the court for divorce filings were mailed a 32-page educational booklet describing the major effects of divorce and remarriage on children and offering practical suggestions for eliminating or minimizing harmful effects, particularly those resulting from parental conflict. The study showed no immediate changes in these families in terms of inter-parental conflict or visitation arrangements by the three-month follow-up date. But it did show a reduction of loyalty conflict behaviour by the children. At the one-year follow-up, there was more positive communication between parents and the non-residential parent tended to have greater access to his or her children than did the parents in families in the control group. There was no identification of levels of conflict in these families, nor any identification of stressful factors such as relocation or remarriage. Participants were not streamed into this project according to any criteria, but rather on the basis of random sampling.

Arbuthnot and Gordon (1996) evaluated the outcomes for 131 parents who attended one two-hour mandatory education class. The authors claim that the course content focussed on the needs of children and on the parenting skills necessary to meet their needs and minimize the stresses associated with being caught in the middle of parents' conflict. The six-month follow-up of these families showed that the majority of parents valued the program, learned useful parenting and communication skills, and lowered the exposure of the children to parental conflict.

5.1 Analysis of studies of divorce education programs

There are several problems with these kinds of studies. First, as with research connected with counselling/therapy programs and mediation programs, these studies do not begin with a clear picture of how the children and parents in these families are coping with the divorce before any intervention takes place. Second, while the last study looked at participants whose attendance was mandatory, there is no sense of the parents' pre-intervention cooperation. As a result, even in mandatory programs, it is impossible to determine the parents' level of compliance. Third, other stressful factors for these families, such as relocation or remarriage, are not identified or included. Fourth, no attempt is made to determine levels of conflict between the parents, so it is impossible to measure whether these programs are effective in reducing conflict in these families.

6. CONCLUSIONS AND RECOMMENDATIONS

This research project is part of the federal Minister of Justice's response to the findings and recommendations of the Special Joint Committee on Child Custody and Access. The goal of this research was to identify the characteristics of those families that become embroiled in what are often referred to as high conflict divorces. It also explored the experience of various clinical and legal projects and professionals who attempt to stream high conflict families into other services designed to facilitate conflict resolution.

The interest in high conflict families comes from a growing awareness, often commented on in the hearings of the Special Joint Committee, that these families consume an excessive amount of their own emotional and financial resources in ongoing disputes over custody, access and child support. They also use an inordinate proportion of legal and judicial services as well as significant amounts of counselling and therapeutic services. This study was based on the premise that, if it is established from clinical and empirical studies that divorce generally results in significant negative outcomes for children, it should follow that high conflict divorce situations cause even more harm to children. Verifying this link, and establishing criteria for assessing levels of conflict, would be a step toward developing preventive and restorative service initiatives to limit and reduce the potential for harm to children caught in these difficult family circumstances.

The methodology for this study was a comprehensive review of the literature, followed by a series of interviews with researchers and mental health professionals who investigate and work with divorcing families and children. These mental health professionals included social workers, psychologists and psychiatrists who work as therapists and also conduct custody/access assessments to develop parenting plans for separated and divorced families.

The review of the literature included several types of studies:

- narrative studies that compile observations and descriptions of parents and children, who, in these studies, are usually clients at a particular counselling or legal clinic;
- small and medium sample psychometric studies of families that use certain types of private and community services to help with the divorce process; and
- large sample longitudinal studies designed to identify certain effects of divorce or factors that contribute to high conflict.

6.1 How divorce affects children

Most empirical research, whether based on small sample groups or large sample longitudinal studies, concludes that divorce is a harmful experience for children. Not only do children go through a difficult period of adjustment when their parents separate, a significant number continue to struggle with the after-effects of their parents' divorce for many years. Moreover, these after-effects often lead to difficulties in their adult lives.

To appreciate the dangers of divorce for children, it is necessary to identify the structural, relationship and emotional changes that occur in the family and see how these are connected to negative outcomes for children. The studies reviewed here identify the following changes that occur in a divorcing family. These are also referred to as *risk factors* for children:

- structural/environmental changes, in residence, neighbourhood, school, income level and social/recreational routines;
- relationship changes, such as the loss of time with one parent (usually the father), the interruption of friendship networks, the loss of contact with the extended family and the introduction of new adult partners;
- emotional changes, such as the psychological maladjustment to the divorce by one or both parents, the decreased parenting ability of one or both parents and the increased hostility between parents.

In addition, there is some evidence that episodes of domestic violence will be more likely to occur around the time of separation and may increase in families having a dispute over custody and access.

These changes or risk factors present a unique set of challenges for children of divorce that children in intact families are usually able to avoid. The most significant of these challenges are:

- the loss of predictability in their lives;
- the loss of familiar aspects and routines; and
- the divided loyalty towards both parents.

How children deal with these challenges seems to depend on certain factors. Many studies show that the most important factor in children's adjustment is the parents' ability to adjust to the separation. These studies show that the parent who makes the initial decision to separate usually starts off with less anger, sadness and upset than the parent who feels left. This parent often feels deserted and powerless, and these feelings seem to result in a loss of parenting focus. These studies conclude that certain parenting tasks are necessary to help children make a positive adjustment to life in a separated family. These parenting tasks include:

- maintaining healthy and normal daily routines;
- limiting the amount and frequency of major life changes; and
- being careful about introducing new adults into the children's lives.

Many parents become overwhelmed by the decision to separate and become preoccupied with their own needs for security, friendship and revenge. When this happens, children suffer.

Although some studies show that many children suffer no permanent damage as a result of their parents' divorce, empirical research shows that the majority of children go through a very difficult period of transition and that a significant number carry the negative outcomes into their adult lives. More study is necessary to identify which risk factors are most toxic in terms of

long-term effects, but existing research shows that significant numbers of children display the following areas of difficulty after their parents separate:

- poor academic achievement;
- poor social relationships;
- conduct and social difficulties;
- emotional difficulties including depression, fear, anxiety;
- substance abuse; and
- poor adult relationships.

Many of these children carry a general sense of distrust about relationships throughout their lives, and long-term studies show these individuals lead more difficult lives in general than those who grew up in intact families.

Existing divorce education programs are aimed at parents who have already made the decision to separate. What is needed to help prevent an increasing number of Canadian children from having to deal with the proven difficulties related to separation and divorce is a program of national public education that would make all parents aware of the hazards of divorce for children.

Recommendation 1

Public education initiatives, similar to those that describe the hazards of smoking or driving under the influence of alcohol, are necessary to bring awareness of the harmful effects of divorce on children to a much wider audience. Increased awareness of the hazards that divorce poses for children would perhaps encourage parents to make more use of counselling and therapeutic services to prevent divorce.

A majority of studies conclude that maintaining a relationship with both parents following separation is an important factor in mitigating negative outcomes for children. However, studies also show that joint and shared parenting arrangements are often favoured by adults but not by children. A number of recent studies conclude that joint physical custody and equal access arrangements often result in increased conflict between parents, thus causing negative outcomes for children. These studies recommend more research into the long-term implications of joint custody arrangements.

Recommendation 2

Research, using longitudinal data, is needed to compare the long-term adjustment of children in joint physical custody arrangements to that of children in arrangements where their relationship with both parents is protected but the child spends most of his or her time at one residence.

Recommendation 3

Public education initiatives aimed at families that are separating are required to provide more information about various models of shared parenting beyond traditional ideas, i.e. either joint or sole custody.

6.2 Characteristics of high conflict divorcing families

A number of clinical and empirical studies have concluded that one of the most toxic factors contributing to the immediate and long-term negative outcomes for children is ongoing conflict between parents before and after divorce. These studies are very clear in their conclusions about the dangers to children of exposure to high conflict between their parents, but they are vague and inconsistent about how to define high conflict. One of the persistent difficulties in these studies is the lack of baseline measures for the "normal" level of conflict that one would expect in most divorcing families. Without this baseline, it is impossible to accurately determine the level of conflict that can be defined as "high conflict."

Recommendation 4

More empirical research is needed to develop an accurate measure of the conflict which can be defined as high conflict. Such research, using large sample groups, should begin by establishing baseline measures for the amount of conflict that normally exists in divorcing families as compared to intact families. Once this baseline is established, a second baseline of conflict levels can be determined for families that exhibit a number of the characteristics mentioned below.

In the absence of any accurate psychometric measures for high conflict families, a number of researchers have identified certain behavioural or emotional characteristics that typify what they refer to as high conflict divorces. The problem with these studies is that they try to identify behavioural or emotional characteristics that contribute to a state of affairs that is not clearly defined at the start. These characteristics are broken down into internal elements and external markers.

The internal elements are those characteristics that come to light as a result of careful investigation by a trained mental health professional. These include feelings, attitudes, belief systems and relationship dynamics, and are often identified during custody/access assessments.

Internal individual elements include:

- a history of mental health difficulties, including depression, anger, withdrawal and uncommunicative behaviour;
- a sense of powerlessness;
- an overwhelming sense of unresolvable loss;
- a history of violent and abusive behaviour;
- a tendency to vilify the other parent;

- a poor sense of personal autonomy beyond the marital relationship;
- an inability to separate the parents' needs from the child's needs;
- a high degree of distrust;
- rigid and inflexible thinking about relationships and child development;
- a history of addictions and substance abuse; and
- generalized anger towards life in general and members of the opposite sex.

Internal relationship characteristics include:

- a tendency towards enmeshment rather than autonomy;
- a poor sense of boundaries;
- a high degree of competitiveness in the marriage and in the separation;
- verbal and physical aggression between the parents;
- a tendency to involve the children in the disputes; and
- a pattern of alienating the child from the other parent.

External markers tend to be quantitative in nature and can be noted and tracked by any professional who has regular contact with the family. These include:

- criminal convictions;
- involvement of child welfare agencies in the dispute;
- several or frequent changes in lawyers;
- the number of times a case goes to court;
- the overall length of time it takes for the case to be settled; and
- a large amount of collected affidavit material.

Some attempts have been made by researchers and clinicians to develop "typologies" of high, medium and low levels of conflict as a first step in streaming these families. The most common streaming is towards different types of parenting plans. These distinctions appear to have only limited application in the clinical practices of mental health professionals who conduct custody/access assessments. Most mental health professionals start from the assumption that families who require assessments (often court-ordered) are already in high conflict situations. The assessment process then makes a further distinction between high conflict and low conflict families. Recommendations for parenting plans, including ideas for using community resources to reduce levels of conflict, are then linked to the level of conflict identified in the assessment.

This research study concludes that a high or low conflict typology is more useful to practitioners than models that identify several levels of conflict. This simpler model provides easier links to specific types of parenting plans. Suggested models are shown in Table 1 and Table 2.

Table 1: High Conflict Families, Characteristics and Suggested Parenting Plan

External Markers	Key Elements of a Parenting Plan
• criminal convictions • involvement of child welfare agencies in the dispute • several or frequent changes in lawyers • the number of times a case goes to court • the overall length of time it takes for the case to be settled • a large amount of collected affidavit material • a history of access denial	• minimal or no contact between parents • a great amount of detail with little flexibility left to parents • regular routines for children • a primary parent for decision-making • access may be limited or supervised • any communication between parents is through use of a "Communication Book" • use of a neutral place for exchange of children
Individual and Relationship Characteristics	**Referral to Community Resources**
• a history of mental health difficulties, including depression, anger, withdrawal and uncommunicative behaviour • a history of violent and abusive behaviour • a tendency to vilify the other parent • an inability to separate the parents' needs from the child's needs • inflexible thinking about relationships and child development • a high degree of distrust • a tendency towards enmeshment rather than autonomy • a poor sense of boundaries • a high degree of competitiveness in the marriage and in the separation • the amount of verbal and physical aggression between the parents • a tendency to involve the children in the disputes • a pattern of alienating the child from the other parent	• mandated services to monitor child safety • counselling and therapy to help with issues of anger and loss • addictions services • supervised access and exchange programs

Table 2: Low Conflict Families, Characteristics and Suggested Parenting Plan

External Markers	Key Elements of a Parenting Plan
• ongoing disputes of items of daily routine • use of supportive family and friendship networks to limit conflict • use of lawyers as a last resort • few court appearances • no criminal activity linked to the custody dispute • no history of violence	• possibility of joint and shared decision-making; • possibility of equal time with both parents based on the child's needs • parenting plans to provide guidelines, but allowing flexibility between parents; • focus on contentious issues, leaving most for the parents to negotiate.
Individual and Relationship Characteristics	**Referral to Community Resources**
• ability to separate the child's needs from parents' needs • ability to validate the importance of the other parent • conflict is resolved with only occasional expressions of anger • negative emotions quickly brought under control • ability to not say certain things in anger • pattern of protecting the child from angry episodes • child functioning improves after a period of adjustment • both parents can tolerate differences • ability to cooperate on child-related issues • a resolution of personal issues	• mediation services • individual and group support counselling for children and parents • parent education programs

It may be that, beyond the practical application for developing parenting plans, there is little usefulness in trying to define more accurate criteria for characterizing high conflict divorce situations. Probably the main difficulty with this term is the adjective "high", since it implies there is a clear distinction between various levels of conflict. Making such distinctions among individuals is one thing, but trying to generalize such distinctions and draw universal correlations between combinations of external and internal markers and the children's emotional response to these markers demands very sophisticated research.

At this time, it is most useful to see divorce conflict as a continuum, an interplay between three sets of factors:

- specific events and behaviours in a family leading up to and following the decision to separate;
- the family and community resources available to help the parents and children adjust to the structural/environmental, emotional and relationship changes; and
- the children's internal responses to these challenges.

Recommendation 5

More research, including studies that investigate long-term outcomes, is needed to determine whether the use of criteria to identify high conflict divorce has any practical application for mental health and legal practitioners in terms of developing parenting plans and alternative services for dispute resolution.

Some studies refer to specific types of hostile behaviour between parents in high conflict. These behaviours include parental alienation, use of false allegations, and access and custody denial. Each of these requires more study to accurately define the behaviour as well as gain some understanding about how these particular behaviours affect children.

Recommendation 6

More research is required concerning certain elements of high conflict divorces, specifically parental alienation, use of false allegations, and access and custody denial, to determine whether legislative initiatives would be a useful response to these situations.

6.3 The effects on children of high conflict between parents

When looking at negative outcomes for children, a majority of studies identify high conflict between parents as having the most toxic effect on children. Only a few studies have examined the after-effects on children of high conflict families. These studies conclude that exposure to high conflict between divorcing parents results in children showing:

- high levels of aggressive behaviour;
- anti-social behaviour;
- conduct disorders; and
- anxiety.

They further conclude that:

- open hostility for periods longer than one year are likely to cause children problems in the form of uncontrolled behaviour;
- both girls and boys are equally effected by inter-parental hostility, but boys are more likely to show their upset in overt displays of problem behaviour;
- the child's age does not to seem to be a mitigating factor in reactions to inter-parental hostility (very young children and older adolescents all show upset in these situations); and
- good relationships between one or both parents and the child mitigate but do not eliminate the negative effects of inter-parental hostility.

These studies indicate that children who live in high conflict situations are at an even greater risk of becoming maladjusted than children in lower conflict circumstances of divorce and separation.

Recommendation 7

As part of a public education program designed to raise awareness about the hazards of divorce for children, attention should focus on the specific hazards caused by high conflict situations.

7. SUMMARY OF RECOMMENDATIONS

Recommendation 1. Current initiatives in the development of parental education programs for divorcing parents only reach parents who have already made the decision to separate. Public education initiatives would bring the harmful effects of divorce for children to a much wider audience, and would perhaps encourage some parents to make more use of counselling and therapeutic services, which might help reduce the number of divorces.

Recommendation 2. Research, using longitudinal data, is needed to compare the long-term adjustment of children in joint custody arrangements to that of children in arrangements where their relationship with both parents is protected but the child spends most of his or her time at one residence.

Recommendation 3. Public education initiatives aimed at families that are separating are needed to provide more information about various models of shared parenting beyond traditional ideas that are limited to either joint or sole custody.

Recommendation 4. In order to develop an accurate measure of what can be defined as high conflict, further empirical research is required. Such research, using large sample groups, should begin by establishing a baseline measure for the amount of conflict that normally exists in divorcing families as compared to intact families. Once this baseline is established, a second baseline of conflict levels can be determined for families characterized by the external and internal elements described in Section 6.2.

Recommendation 5. More research, including studies that investigate long-term outcomes, is needed to determine whether the use of criteria to identify high conflict divorce has any practical application for mental health and legal practitioners in terms of developing parenting plans and alternative services for dispute resolution.

Recommendation 6. More research is required concerning certain elements of high conflict divorces, specifically parental alienation, use of false allegations, and access and custody denial, to determine whether legislative initiatives would be a useful response to these situations.

Recommendation 7. As part of a public education program designed to raise awareness about the hazards of divorce for children, attention should focus on the specific hazards caused by high conflict situations.

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APPENDIX A:
LIST OF KEY CONTACTS

1. Invited and agreed to participate

Nicholas Bala
Queen's University, Faculty of Law
Kingston, Ontario

Recognized as one of Canada's legal researchers in the area of high conflict divorce. Appeared before the Special Joint Committee on Child Custody and Access.

Robbie Behr
Family Law Support Services, Saskatchewan Justice

Saskatchewan Justice has conducted research about identification and streaming of high conflict families.

Sally Bleecker, MSW
Ottawa, Ontario

A family therapist in practice since 1975. She has conducted family assessments on a fee-for-service basis since 1990. Former coordinator of the Parent Child Supervised Access Program of Ottawa-Carleton.

Janet Claridge, MSW
Ottawa, Ontario

A therapist in practice since 1986, working with children and couples. Conducts family assessments for the Ontario Office of the Children's Lawyer.

Rhonda Freeman, MSN
Families in Transition
Toronto, Ontario

Director of a large program for high conflict divorced families and children. Appeared before the Special Joint Committee on Child Custody and Access.

Eric Hood
Clark Institute of Psychiatry
Hamilton, Ontario

A Canadian researcher and clinician working with high conflict divorced families. Appeared before the Special Joint Committee on Child Custody and Access.

Lena Jones, MA, Psychologist
Ottawa, Ontario

A family therapist in private practice. Has conducted custody/access assessments on a fee-for-service basis since 1971.

Arthur Leonoff, Ph.D, Clinical Psychology
Ottawa, Ontario

In private practice with individuals, couples and families. Has conducted custody/access assessments on a fee-for-service basis for more than 20 years.

Lorraine Martin, MSW, and, Rachel Birnbaum
Office of the Children's Lawyer, Ontario

Coordinate legal services for children in high conflict families.

Susan Woolam, MSW
Ottawa, Ontario

In practice since 1985. Social worker with the Ottawa Board of Education; also therapist in private practice with families and children. Conducts family assessments for the Ontario Office of the Children's Lawyer.

2. Invited but declined or was unavailable to participate

Jack Arburthnot

Recognized as a developer, innovator and researcher in the area of education programs for divorcing parents and children.

Howard Irving
University of Toronto, Faculty of Social Work
Toronto, Ontario

Recognized as one of the developers and innovators of family mediation as an alternative system for dispute resolution. Has researched the immediate and long-term effects of mediation for high conflict families. Appeared before the Special Joint Committee on Child Custody and Access.

Janet R. Johnston
Centre for Families in Transition
Corte Medera, California

Internationally recognized as one of the main researchers of the effects of divorce on children. Has written extensively on the effects of divorce on children and has developed a typology for identifying high conflict families.

Peter Jaffe
London Family Court Clinic
London, Ontario

Internationally recognized for his research into domestic violence and specifically violence in high conflict custody disputes.

Gary Austin
London Family Court Clinic
London, Ontario

Internationally recognized for his research into domestic violence and specifically violence in high conflict custody disputes. Appeared before the Special Joint Committee on Child Custody and Access.

John Dunne, Psychiatrist and Researcher
Seattle, Washington

A clinician and researcher who has researched the effects of new legislation and programs for divorced families in Washington State. Appeared before the Special Joint Committee on Child Custody and Access.

Rosalyn Goffman, Psychologist
Winnipeg, Manitoba

Appeared before the Special Joint Committee on Child Custody and Access representing a group of mental health professionals who conduct family assessments.

Judith Wallerstein
Centre for Families in Transition
Corte Medera, California

Internationally recognized as one of the main researchers of the effects of divorce on children. Has conducted a 5, 10, 15 and 25 year follow-up of children from divorced families.

APPENDIX B:
QUESTIONS ASKED IN KEY CONTACT INTERVIEWS

The following questions formed the basis for the interviews.

Concerning the incidence of "high conflict" divorces.

The special Joint Committee heard last year many references about the incidence of high conflict divorces. The incidence of these situations was estimated at between 10 and 15 percent of all divorcing families.

- Does your research/clinical work give any precision to this number?
- Are you aware of factors that influence the incidence of these situations?

Concerning the definition of "high conflict" divorces.

This research is attempting to develop a typology, which will help in the early identification of "high conflict" situations so that these families might be diverted or "streamed" into alternative dispute resolution services.

- What factors do you think initially contribute to these high conflict situations?
- What factors do you think help maintain these situations?
- What measures do you use in your work to identify these families from other divorcing families?
- If you were to develop a typology of high conflict situations, what five factors would you include?

Concerning the harmful effects of high conflict.

The majority of research shows that high conflict situations after divorce have an extremely high detrimental effect on children.

- Does your research/clinical work support this finding?
- What are the most serious and long lasting effects of high conflict on children?
- Are you aware of any difference in how high conflict affects boys and girls?
- Are there certain periods of development when children are either more vulnerable or more insulated from these harmful effects?
- What are your conclusions about the long-term versus short-term effects of high conflict on children?
- Are there factors that can help mitigate these harmful effects?

Several research studies indicate that the harmful effects of high conflict may be overly estimated. These studies show that the damage for children actually occurs in the pre-divorce conflict, not the post-divorce conflict.

- What is your opinion on this?

Concerning the effect of divorce on children.

Most research shows that all divorces have a detrimental effect on children. However, there does appear to be some disagreement concerning whether these effects are long lasting or permanent, or whether they are a difficult transition period that most children get through without any lasting harm.

- Does your work give any new information about the transitory versus permanent harm caused to children by all divorces?
- Are there factors that mitigate the harm?
- Are the factors that exacerbate the harmful effects?

Concerning the early identification of high conflict situations.

This research is attempting to determine the feasibility of early identification and streaming of high conflict divorces.

- Does your work give any indication of how early certain identifiable factors can be seen in high conflict divorcing families?
- Does your work indicate what the effects of early identification of the conflict are for these families?
- Does your work show whether there is any long-term benefit to these families of early identification?

Concerning the effectiveness of various models of streaming high conflict divorce families.

This research is exploring whether there is any proven benefit of streaming the high conflict families out of the normal processes of court litigation into alternative forms of dispute resolution.

- Does your work show whether streaming models have any usefulness in working with high conflict families?
- Are the benefits of streaming maintained over time or are they short-term benefits?
- Are there particular models of dispute resolution best linked with particular kinds of conflict?
- What are the benefits to children of having their parents streamed into alternative models of dispute resolution?
- Are there any findings that indicate that mandatory programs are more or less effective than voluntary programs?